

LUKAS, NACE, GUTIERREZ & SACHS, LLP

8300 GREENSBORO DRIVE, SUITE 1200
MCLEAN, VIRGINIA 22102
703 584 8678 • 703 584 8696 FAX

WWW.FCCLAW.COM

RUSSELL D. LUKAS
DAVID L. NACE
THOMAS GUTIERREZ*
ELIZABETH R. SACHS*
DAVID A. LAFURIA
PAMELA L. GIST
TODD SLAMOWITZ*
BROOKS E. HARLOW*
TODD B. LANTOR*
STEVEN M. CHERNOFF*
KATHERINE PATSAS NEVITT*

CONSULTING ENGINEERS
ALI KUZEHKANANI
LEILA REZANAVAZ
—
OF COUNSEL
GEORGE L. LYON, JR.
LEONARD S. KOLSKY*
JOHN CIMKO*
J. K. HAGE III*
JOHN J. MCAVOY*
HON. GERALD S. MCGOWAN*
TAMARA DAVIS BROWN*
JEFFREY A. MITCHELL*
ROBERT S. KOPPEL*
MARC A. PAUL*
—

*NOT ADMITTED IN VA

February 23, 2012

SENT VIA E-MAIL AND FILED VIA ECFS

Austin Schlick
General Counsel
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

**Re: *Ex Parte* Notification
WC Docket No. 10-90; WC Docket No. 05-337;
CC Docket No. 96-45; WT Docket No. 08-95**

Dear Mr. Schlick:

We are writing to you to express our concern with a series of recent *ex parte* filings made by Verizon in the above-captioned proceedings.¹ Put simply, the content of Verizon's *ex parte* notices does not provide sufficient information to comply with Section 1.1206 of the Rules or with the Commission's statements in its recent *Ex Parte Order*.²

In its *ex parte* dated January 24, 2012, Verizon asserted that it "discussed the financial impact of and the scope of the different approaches to CETC support for Verizon over the next few years." In its *ex parte* dated January 31, 2012, Verizon stated that it "discussed options for resolving Verizon's pending petition for clarification." In neither *ex parte* did Verizon provide any specific information about the purported scope of the financial impact on Verizon, or the options presented by Verizon to the Commission's staff.

¹ In accordance with Section 1.1206 of the Commission's Rules, 47 C.F.R. § 1.1206, we are filing this *ex parte* letter via ECFS in the above-captioned proceedings.

² *Amendment of the Commission's Ex Parte Rules and Other Procedural Rules*, Report and Order and Further Notice of Proposed Rulemaking, GC Docket No. 10-43, FCC 11-11, 26 FCC Rcd 4517 (2011) ("Ex Parte Order").

In an *ex parte* filed by the undersigned on February 6, 2012, we expressed our concern about Verizon's failure to provide sufficient information into the public record. Specifically,

[W]e stated our concern that Verizon Wireless has not submitted into the public record the financial data that it has discussed with FCC staff. We noted that this data, based on publicly available USAC data, is not confidential or proprietary, but is not readily ascertainable by third parties.

Our concerns have gone unheeded by Verizon. In an *ex parte* filed on February 16, 2012 summarizing a series of three phone calls with the Office of General Counsel, Verizon again stated that it "discussed options for resolving Verizon's pending petition for clarification" Although Verizon has now filed six *ex parte* notices regarding its petition for reconsideration, not once has Verizon ever described the substance of these "options" for resolving its pending petition. Likewise, Verizon has not provided a summary, let alone the specifics, of the financial data that it has provided to the Commission – nor has Verizon sought confidential treatment of such data.

Section 1.1206(b)(1) states, in relevant part, that:

Memoranda must contain a summary of the substance of the *ex parte* presentation and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required.

The *Ex Parte Order* clearly states the Commission's expectations:

Summaries must be sufficiently detailed that they would inform a person who did not attend the presentation of the facts that were discussed, the arguments made, and the support offered for those arguments.³

The notices filed by Verizon wholly fail to summarize the arguments made and the support offered for those arguments, and thus, appear to violate the spirit, if not the letter, of the FCC's *ex parte* rules. We cannot address the options presented by Verizon because we do not know what these options are. We cannot address the financial data provided by Verizon because this data has not been submitted into the record. For these reasons, we request that you require Verizon to file a summary of its past meetings that complies with the Commission's Rules and policies, and that you take steps to ensure that Verizon provides sufficient summaries of future meetings with Commission staff.

³ *Ex Parte Order* at ¶ 35.

Mr. Austin Schlick
February 23, 2012
Page 3

If you have any questions or require any additional information, please contact undersigned counsel directly.

Respectfully submitted,

David A. LaFuria
Robert S. Koppel
LUKAS NACE GUTIERREZ & SACHS, LLP

cc: Julie Veach, Office of General Counsel
Diane Griffin Holland, Office of General Counsel
Marcus Maher, Office of General Counsel
Jim Bird, Office of General Counsel
Trent Harkrader, Wireline Competition Bureau
Amy Bender, Wireline Competition Bureau
Ted Burmeister, Wireline Competition Bureau